

Exhibit A

From: Jose Ballesteros <jose@masstortslaw.com>
Sent: Friday, February 23, 2018 4:10 PM
To: Richard North; Maria Turner; Matthew Lerner
Subject: Carlos Martinez v. C.R. Bard et al. - 2:18-cv-00595-DGC
Attachments: FILED Complaint.pdf; 398 + 399 (BARD).pdf

Good afternoon counsel. Attached find the Short Form Complaint filed in the above referenced case, along with the corresponding waiver forms.

Best regards,

Jose Ballesteros | Attorney
Johnston Law Group
Office: (844) 345-3784
Direct: (415) 500-4381
www.masstortfirm.com



This transmission is from the Law Office of Christopher K. Johnston, LLC and may contain information which is privileged, confidential, and protected by the attorney-client or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and call us immediately at (844) 345-3784.

UNITED STATES DISTRICT COURT
for the
District of Arizona

<u>Carlos Martinez</u>)	
<i>Plaintiff(s)</i>)	
)	
v.)	Civil Action No. <u>2:18-cv-00595-DGC</u>
<u>C.R. Bard, Inc., et al.</u>)	
<i>Defendant(s)</i>)	

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Bard Peripheral Vascular, Inc.

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above.
A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (*give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States*) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: February 23, 2018

/s/ Christopher K. Johnston

Signature of the attorney or unrepresented party

Christopher K. Johnston

Printed Name

268 Ponce de Leon Ave. Suite 1020
San Juan, PR 00968

Address

kyle@masstortsllaw.com

E-mail address

(844) 345-3784

Telephone number

UNITED STATES DISTRICT COURT
for the
District of Arizona

Carlos Martinez)	
Plaintiff(s))	
)	
v.)	Civil Action No. <u>2:18-cv-00595-DGC</u>
C.R. Bard, Inc., et al.)	
Defendant(s))	

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: C.R. Bard, Inc.

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above.
A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (*give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States*) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: February 23, 2018

/s/ Christopher K. Johnston

Signature of the attorney or unrepresented party

Christopher K. Johnston

Printed Name

268 Ponce de Leon Ave. Suite 1020
San Juan, PR 00918

Address

kyle@masstortsllc.com

E-mail address

(844) 345-3784

Telephone number

UNITED STATES DISTRICT COURT
for the
District of Arizona

<u>Carlos Martinez</u>)	
<i>Plaintiff(s)</i>)	
)	
v.)	Civil Action No. <u>2:18-cv-00595-DGC</u>
)	
<u>C.R. Bard, Inc., et al.</u>)	
<i>Defendant(s)</i>)	

WAIVER OF THE SERVICE OF SUMMONS

To: Christopher K. Johnston
(Name of plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from February 23, 2018, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Bard Peripheral Vascular, Inc.

Printed name of party waiving service of summons

Printed Name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT
for the
District of Arizona

<u>Carlos Martinez</u>)	
<i>Plaintiff(s)</i>)	
)	
v.)	Civil Action No. <u>2:18-cv-00595-DGC</u>
)	
<u>C.R. Bard, Inc., et al.</u>)	
<i>Defendant(s)</i>)	

WAIVER OF THE SERVICE OF SUMMONS

To: Christopher K. Johnston
(Name of plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from February 23, 2018, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

C.R. Bard, Inc.

Printed name of party waiving service of summons

Printed Name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

1 Jose Tomas Ballesteros, PR Bar No. 20390
2 Christopher Kyle Johnston, CA Bar No. 261474
3 Law Office of Christopher K. Johnston, LLC
4 268 Ponce de Leon Ave., Ste. 1020
5 San Juan, PR 00918
6 Office: (844) 345-3784
Fax: (844) 644-1230
jose@masstortslaw.com
kyle@masstortslaw.com

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

**IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION**

No. 2:15-MD-02641-DGC

MASTER SHORT FORM COMPLAINT FOR DAMAGES FOR INDIVIDUAL CLAIMS AND DEMAND FOR JURY TRIAL

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc.364). Plaintiff(s) further show the Court as follows:

- 1. Plaintiff/Deceased Party:**

Carlos Martinez

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

Not applicable

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian conservator):

1 Not applicable

- 2 4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of
3 residence at the time of implant:

4 Texas

- 5 5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of
6 residence at the time of injury:

7 Texas

- 8 6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

9 Texas

- 10 7. District Court and Division in which venue would be proper absent direct
11 filing:

12 U.S. District Court for the Northern District of Texas, Dallas Division

- 13 8. Defendants (check Defendants against whom Complaint is made):

14 C. R. Bard Inc.

15 Bard Peripheral Vascular, Inc.

- 16 9. Basis of Jurisdiction:

17 Diversity of Citizenship

18 Other: _____

- 19 a. Other allegations of jurisdiction and venue not expressed in

20 Master Complaint:
21 _____

22 _____

23 _____

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

- Recovery® Vena Cave Filter
 - G2® Vena Cava Filter
 - G2® Express Vena Cava Filter
 - G2® X Vena Cava Filter
 - Eclipse® Vena Cava Filter
 - Meridian® Vena Cava Filter
 - Denali® Vena Cava Filter
 - Other: _____

11. Date of Implantation as to each product:

May 5, 2012

12. Counts in the Master Complaint brought by Plaintiff(s):

- Count I: Strict Products Liability – Manufacturing Defect
 - Count II: Strict Products Liability – Information Defect (Failure to Warn)
 - Count III: Strict Products Liability – Design Defect
 - Count IV: Negligence – Design
 - Count V: Negligence – Manufacture
 - Count VI: Negligence – Failure to Recall/Retrofit

13. Jury Trial demanded for all issues so triable?

2 Yes

3 No

5 RESPECTFULLY SUBMITTED this 22nd day of February, 2018.

7 **LAW OFFICE OF
CHRISTOPHER K. JOHNSTON, LLC**

9 By: /s/ Jose Tomas Ballesteros

10 Jose Tomas Ballesteros
11 Christopher K. Johnston
12 268 Ponce de Leon Ave.
13 Ste. 1020
14 San Juan, PR 00918
15 Office: (844) 345-3784
16 jose@masstortslaw.com
17 kyle@masstortslaw.com

18 I hereby certify that on this 22nd day of February 2018, I electronically
19 transmitted the attached document to the Clerk's Office using the CM/ECF System
20 for filing and transmittal of a Notice of Electronic Filing.

21 /s/ Jose Tomas Ballesteros